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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,687	12/11/2001	Anthony Earle	81444F-P	3189

7590

08/12/2003

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/014,687

Applicant(s)

EARLE ET AL.

Examiner

Frederick C. Nicolas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 4, 8, 12, 15, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-11, 13, 14, 16, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's argument filed on 6/26/2003 including the amendment to claim 1 have been considered and found to be persuasive. Therefore, the restriction requirement of group I, claims 1-9 have been withdrawn. Further, claims 4 and 8 are withdrawn from consideration and added to the non-elected claims, because the claimed subject matter in claim 4, "wherein the displacement is caused by a screwthreaded member" and the claimed subject matter in claim 8, "wherein the container is punctured as it is fitted onto the processing apparatus" are directed toward a non-elected species.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,6-7,10,13 and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. 0354663 A2.

Taylor et al. discloses a delivery unit for supplying low viscosity processing solution to a processing apparatus as seen in Figure 1, which comprises a storage container 1 having a nozzle 5, a piston 4, and means for activating the piston such that a fixed amount of solution is delivered out of the container via the nozzle each time the piston is activated (col. 2, ll. 17-38 and col. 6, ll. 49-56).

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The device shown by Taylor will perform the method recited in claims 1,6-7 during normal operational use of the device.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. 0354663 A2 in view of Hoffmann et al. 4,522,316.

Taylor et al. has all the features of the claimed invention except that a plastic seal is provided behind the piston portion. Hoffmann et al. teaches the use of a plastic seal 6 behind a piston 2 of a storage container 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the plastic seal of Hoffmann et al. onto the invention of Taylor et al. as such, in order to prevent dirt from entering behind the piston, as taught by Hoffmann et al. (col. 4, ll. 40-42).

6. Claims 2-3,5,9,14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. 0354663 A2 in view of Peng 5,615,807.

Taylor et al. has all the features of the claimed invention except that the activation means comprises a rod for pushing the piston. Peng teaches the use an activation means for a storage container 14 (col. 4, ll. 28-57), where the activation

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means comprises a rod 16 for pushing a piston, the rod being in connection with a clutch plate 26 activated by a cam 36.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the means for activating the piston of Taylor et al. with Peng's means for activating the piston as such, in order to provide a smooth continuous feeding during long runs while permitting the feeding to be cleanly and precisely terminated without spurious feeding, as taught by Peng (col. 4, ll. 28-31).

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. 0354663 A2 in view of Koehler et al. 5,538,161.

Taylor et al. has all the features of the claimed invention except that the unit is provided with identification means. Koehler et al. teaches a delivery unit 300 having a container 314, where the delivery unit is provided with identification means 390 to identify product within the container (col. 5, ll. 1-3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teaching of Koehler et al. onto the invention of Taylor et al. as such, in order to identify the product of the container, as taught by Koehler et al. (col. 5, ll. 1-2).

### ***Response to Arguments***

8. Applicant's arguments filed 6/26/2003 have been fully considered but they are not persuasive. Applicants argue that the reference of Taylor does not suggest that the additive should be metered, it is deemed that Taylor describes such limitation, since Taylor discloses that "The very positive introduction of additive is needed for an efficient

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delivery of **measured or metered** amounts of additive", see column 2, lines 17-38. Any remaining arguments have been fully addressed in the above rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carlson 4,543,148 discloses other type of delivery unit.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancene L. Gene can be reached on (703)-308-2696. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communication and (703)-872-9303 for After Final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0861.

FN

August 6, 2003

(FN) 8/6/03

  
Gene Mancene  
Supervisory Patent Examiner  
Group 3700